

SENATE No. 461

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen J. Buoniconti

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to an appeal process of insurance premium surcharges under managed competition.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stephen J. Buoniconti	Hampden
Paul J. Donato	35th Middlesex
Michael R. Knapik	Second Hampden and Hampshire
Menard, Joan (SEN)	First Bristol and Plymouth
David Holway	President NAGE
Scott P. Brown	Norfolk, Bristol and Middlesex
Harriette L. Chandler	First Worcester
Susan C. Tucker	Second Essex and Middlesex
James B. Eldridge	Middlesex and Worcester
James E. Timilty	Bristol and Norfolk
Jennifer L. Flanagan	Worcester and Middlesex
Tom Sannicandro	7th Middlesex
Michael O. Moore	Second Worcester
Stephen M. Brewer	Worcester, Hampden, Hampshire and Franklin
Peter J. Koutoujian	10th Middlesex
Kay Khan	11th Middlesex
John A. Hart, Jr.	First Suffolk
Richard T. Moore	Worcester and Norfolk

Marc R. Pacheco	First Plymouth and Bristol
Thomas M. McGee	Third Essex and Middlesex
Robert F. Fennell	10th Essex
Thomas P. Kennedy	Second Plymouth and Bristol
Stanley C. Rosenberg	Hampshire and Franklin
Michael J. Rodrigues	8th Bristol
Todd M. Smola	1st Hampden
Michael F. Kane	5th Hampden
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Bruce E. Tarr	First Essex and Middlesex
Peter J. Koutoujian	10th Middlesex
Gale D. Candaras	First Hampden and Hampshire
Patricia D. Jehlen	Second Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO AN APPEAL PROCESS OF INSURANCE PREMIUM SURCHARGES UNDER MANAGED COMPETITION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 175E of the General Laws, as so appearing in the 2006 Official
2 Edition, is hereby amended by inserting after Section 7 the following new section:-
3 Section 7A. Any insured aggrieved by any determination of an insurer as to the application of
4 any provision of an insurer's merit rating plan filed and approved by the commissioner pursuant
5 to regulations promulgated in accordance with Section 10 of this chapter and section 15 of
6 Chapter 175A, may within thirty days thereafter, file a written complaint with the board of
7 appeals on motor vehicle policies and bonds, hereinafter called the board. Such complaint shall
8 be accompanied by a filing fee to be determined by the board. The board may deny such appeal
9 without a hearing on the basis of the standards of fault to be promulgated by the board. In the
10 notice of its decision to deny the complaint by the insured, the board shall notify the insured that
11 he has a right to a hearing on the application of the safe driver insurance plan.

12 The board shall provide the insurer and the insured with at least ten days notice of any
13 hearing held under this section. If, after a hearing, the board finds that the application of the safe

14 driver insurance plan was in accordance with the standards promulgated by the board and an
15 insurer's provisions of the safe driver insurance plan approved by the commissioner, it shall deny
16 the appeal. If the board finds that the insurer's application of the safe driver insurance plan was
17 not in accordance with said standards and provisions, it shall order the insurer to make the
18 appropriate premium adjustment. The board may designate a person to act as a hearing officer
19 pursuant to this section. The hearing officer shall file a memorandum of his findings or order in
20 the office of the board, and shall send a copy to the insurer and the insured.

21 Any person or company aggrieved by any finding or order of the board may appeal
22 therefrom to the superior court department of the trial court, pursuant to the provisions of section
23 fourteen of chapter thirty A. The appellant shall file with his appeal a duly certified copy of the
24 complaint and of the finding and order thereon, and, if the appeal is taken from a finding and
25 order of the board in respect to a cancellation, the clerk of such court shall forthwith, upon the
26 filing of such an appeal, give written notice of the filing thereof to the registrar of motor vehicle
27 and to the appellee. Said court shall, after such notice to the parties as it deems reasonable, give
28 a summary hearing on such appeal and shall have such jurisdiction in equity to review all
29 questions of fact and law, and to affirm or reverse such finding or order and may make any
30 appropriate decree. Said court or justice may allow such appeal, finding or order to be amended.
31 The decision of the court or justice shall be final. The clerk of such court shall, within two days
32 after entry thereof, send an attested copy of the decree to each of the parties and the
33 commissioner and to said registrar, or his office. Said court or justice may make such order as to
34 costs as it or he deems equitable. Said court may make reasonable rules to secure prompt
35 hearings on such appeals and a speedy disposition thereof.